

AMENDED IN SENATE APRIL 16, 2007

SENATE BILL

No. 295

Introduced by Senator Cogdill

February 15, 2007

An act to ~~add Section 30182.5 to~~ amend Section 30005.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 295, as amended, Cogdill. Cigarettes and tobacco products.

The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes at specified rates. For purposes of that law, "untaxed tobacco product" is defined as any tobacco product that has not yet been distributed in a manner that results in a tax liability.

The Tobacco Tax and Health Protection Act of 1988 (Proposition 99), which was adopted by the voters at the general election held on November 8, 1988, imposes a surtax on the distribution of cigarettes in addition to the tax imposed pursuant to the Cigarette Tax Law as of the effective date of the adoption of Proposition 99, and imposes a tax on the distribution of certain tobacco products at an equivalent total rate determined pursuant to specified criteria.

The California Families and Children Act of 1998 (Proposition 10), which was adopted by the voters at the general election held on November 3, 1998, imposes a surtax on the distribution of cigarettes in addition to the tax imposed pursuant to the Cigarette Tax Law and the Tobacco Tax and Health Protection Act of 1988 as of the effective date of the adoption of Proposition 10, and imposes a tax on the distribution of certain tobacco products at an equivalent rate.

Existing law includes as an “untaxed tobacco product” any tobacco product that was distributed in a manner that resulted in a tax liability, but that was returned to the distributor after the tax was paid and for which the distributor claimed a deduction pursuant to a specified provision of Proposition 99, or a refund or credit under other specified provisions.

This bill would include as an “untaxed tobacco product” any tobacco product that was distributed in a manner that resulted in a tax liability, but that was returned to the distributor after the tax was paid and for which the distributor claimed a deduction pursuant to a specified provision of the California Families and Children Act of 1998.

This bill would take effect immediately as a tax levy.

~~The Cigarette and Tobacco Products Tax Law requires distributors of cigarette and tobacco products to be licensed by the State Board of Equalization. The Cigarette and Tobacco Products Tax Law also requires a tax imposed by that law with respect to distributions of cigarettes to be paid by distributors through the use of stamps or meter register settings, and requires that these stamps or meter register settings be affixed to each package of cigarettes sold. Existing law requires distributors to report to the board specified information regarding the number of taxable cigarettes and tobacco products distributed by the distributor.~~

~~This bill would require distributors to report specified information by electronic means regarding the sale of untaxed cigarettes and tobacco products to wholesalers, retailers, or any person for any purpose, in or out of this state, to the State Board of Equalization within 24 hours of the sale, as provided.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 30005.5 of the Revenue and Taxation*
- 2 *Code is amended to read:*
- 3 30005.5. “Untaxed tobacco product” means either of the
- 4 following:
- 5 (a) Any tobacco product that has not yet been distributed in a
- 6 manner that results in a tax liability under this part.
- 7 (b) Any tobacco product that was distributed in a manner that
- 8 resulted in a tax liability under this part, but that was returned to

1 the distributor after the tax was paid and for which the distributor
2 has either claimed a deduction pursuant to subdivision (c) of
3 Section 30123 *or 30131.2*, or a refund or credit pursuant to Section
4 30176.2 or Section 30178.2.

5 *SEC. 2. This act provides for a tax levy within the meaning of*
6 *Article IV of the Constitution and shall go into immediate effect.*

7 ~~SECTION 1. Section 30182.5 is added to the Revenue and~~
8 ~~Taxation Code, to read:~~

9 ~~30182.5. Every distributor shall, within 24 hours of the sale,~~
10 ~~file an electronic report with the board regarding any sale of~~
11 ~~untaxed cigarettes or tobacco products to any wholesaler, retailer,~~
12 ~~or any other person for any purpose, in or out of this state. The~~
13 ~~report shall include, but is not limited to:~~

14 ~~(a) The identity of the purchaser of the untaxed cigarettes or~~
15 ~~tobacco products.~~

16 ~~(b) The type of product sold.~~

17 ~~(c) The value of the product sold.~~